

## **CHAPTER THREE – PERSONNEL POLICIES**

### **SUBCHAPTER 3.02 – EMPLOYMENT**

#### **Division 1: General**

##### **3.02.010 Equal Employment Opportunity Policy**

(a) The Town of Colma is an equal employment opportunity employer. The Town will not unlawfully discriminate against qualified applicants and employees with respect to any terms or conditions of employment based on any Protected Characteristic.

(b) The goals and objectives of the Equal Employment Opportunity Policy are to:

- (1) Establish fair treatment and non-discrimination in the terms and conditions of employment of all persons;
- (2) Provide compliance with state and federal laws; and
- (3) Encourage those who do business with the Town to practice equal employment opportunity.

##### **3.02.020 ADA Compliance**

The Town will provide reasonable accommodation in compliance with the Americans with Disabilities Act (ADA).

##### **3.02.030 Equal Employment Opportunity Officer**

The City Manager shall serve as the Equal Employment Opportunity Officer to carry out the Equal Employment Opportunity Policy and Program for all departments. The City Manager shall advise and assist staff and management personnel in all matters regarding implementation of and compliance with the Equal Employment Opportunity Policy, and be responsible for the successful execution of the program, utilizing the assistance of appropriate state and community agencies. The Equal Employment Opportunity Officer will have the responsibility to examine existing internal policies or procedures that may serve as barriers to implementing the Equal Employment Opportunity Program.

##### **3.02.040 Equal Employment Opportunity Practices**

(a) The City Manager shall undertake the following actions to assure equal employment opportunities in the Town:

- (1) Periodically review all position qualifications and job descriptions to establish requirements that are relevant to the tasks to be performed and to delete requirements not reasonably related to the tasks to be performed;

- (2) Periodically review Town practices for compliance with the Equal Employment Opportunity Policy;
- (3) Inform and provide guidance to staff and management personnel who make employment decisions to ensure such decisions are considered without unlawful discrimination and that all applicants be given equal opportunity;
- (4) Hire only qualified candidates who were selected through an open hiring process in order to encourage diversity and establish equal employment opportunity in hiring; and
- (5) Provide orientation for all new employees specifically emphasizing how the Town assures equal opportunity.

(b) Applications for employment will include an equal opportunity clause.

### **3.02.050 Nepotism**

Any person who is the Immediate Relative of an employee or elected official of the Town may not be employed in a position where it is reasonably foreseeable that such person may be directly or indirectly supervised by his or her Immediate Relative, or be the supervisor of his or her Immediate Relative.

### **3.02.060 Employment Eligibility**

An applicant may be disqualified from employment for any of the following reasons:

- (1) Failure to possess the qualifications for the job;
- (2) Inability to perform the essential functions of the job with or without accommodations;
- (3) Making a false statement of any material fact or practicing deception in his or her application;
- (4) Not being within the legal age limits prescribed by law;
- (5) Failing to pass a required pre-employment physical examination; or
- (6) Failure to pass a required background investigation.

## **Division 2: Hiring**

### **3.02.070 Hiring Process – General**

(a) The City Manager may not hire any employee, except a temporary employee, without going through the Hiring Process.

(b) The City Manager will administer and coordinate the Hiring Process for all position vacancies. The City Manager is responsible for compliance with contractual, legal and equal employment opportunity requirements.

### **3.02.080 Hiring Process – Notice**

(a) Job announcements for regular and casual employment positions shall be publicly posted at City Hall for a minimum of ten work days whether recruitment is internal or external.

(b) If there are one or more qualified, in-house, regular employees who were hired through the Hiring Process consistent with the provisions of this section, the City Manager may determine, in his or her discretion, to hire or promote an in-house employee to a job vacancy without external recruitment. If there are no qualified in-house, regular employees who were recruited through an open hiring process, an announcement of the position must be circulated, posted or published in accordance with the provisions of the next paragraph.

(c) In cases of external recruitment, job announcements must be circulated, posted or published in media reaching out to a substantial audience in San Mateo and San Francisco Counties such as local newspapers, local college placement services, community-based organizations, local governments, Town newsletter and other recruitment services. The Town may use for job referral purposes only those recruitment services that do not discriminate on the basis of any Protected Characteristic.

(d) Applications for a position may be accepted after the published application deadline if the City Manager determines that there were an insufficient number of applications received as of the application deadline.

### **3.02.090 Hiring Process – Applicant Expenses**

The Town shall not reimburse any applicant for travel or re-location costs in conjunction with the Hiring Process without express, written authorization from the City Manager.

### **3.02.100 Hiring Process – Testing**

(a) Examinations may be developed for certain positions based on the position's responsibilities, the qualifications required and resources available.

(b) The examination may consist of an oral interview, an application review, a structured questionnaire, practical tests, written tests, in-basket exercise or assessment center, etc. In all cases, the testing will be job related and designed to determine the candidate's knowledge, skills and abilities for the position.

(c) The City Manager shall develop the examination. Examination contents are confidential, and an unauthorized disclosure to any candidate is grounds for discipline.

(d) The City Manager shall provide reasonable accommodations for testing of persons with disabilities. Testing announcements shall advise applicants of special accommodation provisions.

### **3.02.110 Hiring Process – Interviews**

(a) The primary function of the interview is to obtain data or certain knowledge, skills, and abilities of an applicant not available through review of resumes or other testing mechanisms.

(b) The City Manager shall select panel members who will be objective in evaluating candidates. An applicant's Immediate Relatives will, and close personal friends may, be excluded from serving on the panel. Generally, a panel member should have technical expertise, knowledge or experience in the position being filled, experience in personnel administration, or experience in evaluating applicants.

(c) The City Manager shall supervise the interview process. The questions must be job related and all applicants must be asked substantially the same questions. Questions will be designed to measure job knowledge, experience, and education or to solicit responses that reflect those personal traits that are job related. Questions that pertain to Protected Characteristics or other inquiries that tend to directly or indirectly disclose such information are prohibited. Inquiries as to an applicant's ability to read, write or speak foreign languages are permitted when such inquiries are based on job requirements.

### **3.02.120 Hiring Process – Reference Checks**

(a) Before making any offer of employment to a new employee or promoting or transferring an existing employee, the City Manager shall conduct a reference check on the prospective or subject employee.

(b) A basic reference check includes verification of employment duties, date of employment, work record, attendance record, strengths, weaknesses, safety record and other pertinent information.

(c) Applicants for any of the following positions may be required to undergo a thorough background check by the Police Department:

- (1) Positions in the Police Department;
- (2) Positions with supervisory or disciplinary authority over minors; and
- (3) Positions with access to substantial amounts of Town funds.

(d) No reference check or background investigation will be conducted without first notifying the applicant or employee of the investigation and obtaining a signed release from the subject authorizing the reference check. The Town will provide the applicant or employee a copy of any public records received within seven days of receipt of the information. Further, the Town will notify the subject of the report as to who issued the report and how the subject can contact that person if he or she has questions.

(e) In the event that the Town contracts with a third party to conduct any reference check or background investigation, the Town will comply with applicable provisions of the Fair Credit Reporting Act (15 U.S.C. §§ 1681 *et seq.*) and the Investigative Consumer Reporting Agencies Act (CIVIL CODE §§ 1786 *et seq.*).

[Reference: CIVIL CODE §§ 1786 *et seq.*; GOV'T CODE § 1031; PUBLIC RESOURCES CODE § 5164]

### **3.02.130 Hiring Process – List of Qualified Persons**

The City Manager may hire from a list of qualified persons for one year from the date of conclusion of the testing process.

### **3.02.140 Orientation**

New employees will be oriented on Town policies and operations.

### **3.02.150 Probation Period**

(a) An employee hired for appointment to a regular position must serve a period of probation of one year. During the probationary period for a new employee, the Town may terminate a probationary employee without cause and without advance notice, except that the Town may not terminate a probationary employee for any reason prohibited by law. Upon successful completion of the probation, a probationary employee will be considered a regular employee.

(b) A regular employee promoted to a higher position must serve a period of probation of six months from the date of promotion, unless specifically waived by the City Manager. During the probationary period, a promoted employee shall receive all benefits included with the new position.

(c) At any time during the probationary period for a promoted employee, the Town may rescind the promotion without cause and without advance notice. An employee whose promotion has been rescinded has the right to be reinstated to his or her former position, only if the position has not been filled. If the promoted employee's former position has been filled, the promoted employee may be placed in a vacant position for which he or she qualifies with substantially the same pay and benefits that the employee possessed in his or her former position. If there is no available position with substantially the same pay and benefits that the employee possessed in his or her former position, the employee may be terminated. An employee shall have no right to appeal or otherwise challenge the rescinding of his or her promotion, except where the rescission of the promotion results in a termination of employment, in which case the employee is entitled to a hearing in accordance with Subchapter 3.04 of this Chapter.

(d) Notwithstanding the foregoing, the Town shall, upon request of an employee, conduct a "liberty interest" hearing when the Town intends to terminate an employee or rescind a promotion based on charges of misconduct or mismanagement which stigmatizes his or her reputation, seriously impairs his or her opportunity to earn a living, or seriously damages his or her standing in the community. Charges concerning competency or inability to get along with

others do not warrant a liberty interest hearing. The sole purpose of the liberty interest hearing is to afford the employee an opportunity to clear his or her name and refute the charges, not to have his or her job or promotion reinstated or termination rescinded.

(e) Informal evaluations will be conducted during the course of the probation period to assess performance and to advise employees of expectations regarding performance. Significant job deficiencies shall be documented in the employee's personnel file. After six months and at the end of the probation period, the employee will be formally evaluated and provided written documentation of progress.

(f) On recommendation of the employee's supervisor, the probationary period may be extended by the City Manager after an evaluation of the situation, and the employee's abilities and demonstrated potential.

(g) If an employee is granted a leave of absence during his or her probationary period, such time off will not be considered as time worked towards completion of the probation period.

### **3.02.160 Special Employment Programs**

The Hiring Process shall not apply to people hired under any Special Employment Program funded or managed by an outside agency such as youth training programs, AARP Senior Placement Program, university internships, work training programs, etc.

### **3.02.170 Volunteers**

(a) The Hiring Process shall not apply to volunteers.

(b) Volunteers shall receive no pay or benefits, except that the Town shall maintain workers' compensation insurance on volunteers.

### **3.02.180 Outside Employment**

(a) An employee may not carry on, concurrently with their public employment, any other employment, business or activity, including outside volunteer work, which conflicts or interferes with his or her Town employment.

(b) An employee may not perform any function related to outside employment or activities during Town working hours.

(c) Prior to commencing or changing outside employment or business, a regular, probationary, casual or temporary employee must report to the City Manager the name of firm, nature of employment, business or undertaking, hours of work, and address where the work will be performed.

[Reference: GOV'T CODE § 1126]

## **Division 3: Promotions and Demotions**

### **3.02.190 Employee Development**

The City Manager shall:

- (1) Actively encourage all employees to increase their skills and job potential through training and educational opportunities; and
- (2) Offer guidance and counseling in developing programs tailored to individual aptitudes and desires.

### **3.02.200 Promotions or Transfers**

- (a) The City Manager may promote a regular employee to a higher classification or transfer a regular employee to a different classification without following the Hiring Process described in this Subchapter, except that the noticing provisions of section 3.02.080 shall be followed. In all other cases, the City Manager shall follow the Hiring Process before promoting or transferring an employee.
- (b) Unless otherwise authorized by the City Manager, whenever an employee is promoted to a new position, that employee will enter the salary range for the new position at the step that increases salary at least five percent. If the top step of the new position is not at least five percent greater, the employee will be placed at the top step.
- (c) Unless otherwise authorized by the City Manager, whenever an employee is transferred to a new position, that employee will enter the salary range for the new position at the step that is closest to his or her then current salary without decreasing salary.
- (d) Promotions or transfers do not change the person's date of hire. However, the Review Date for future pay increases will be revised to coincide with obtaining regular status in the new position.
- (e) A promoted employee shall serve a period of probation, as specified in section 3.02.150.

### **3.02.210 Temporary Assignments**

The City Manager may temporarily assign an employee to work out of classification for a specified time, and the salary shall be adjusted in accordance with section 3.02.320, entitled "Pay for Working in a Higher Classification." Upon completion of the temporary assignment, the employee shall return to his or her previous classification and pay.

### **3.02.220 Demotions**

- (a) An employee may be reassigned to a position in a lower classification for disciplinary reasons, in lieu of layoff, as an accommodation, or as a result of a re-classification study. The employee shall receive pay commensurate with the nature of the demotion as determined by the Department Director in consultation with the City Manager. This may result in a reduction of pay.

- (b) Demotions do not change the person's date of hire. However, the Review Date shall change for future salary increases.
- (c) An employee may not be demoted to a position for which he or she does not possess the minimum qualifications.
- (d) The City Manager may reconsider the demotion when the employee's previous position is reopened.
- (e) Any demotion for disciplinary reasons shall be conducted in conformance with Subchapter 3.04. An employee reassigned to a position in a lower classification in lieu of layoff, as an accommodation, or as a result of a re-classification study is not entitled to an evidentiary hearing.

#### **Division 4: Compensation and Hours**

##### **3.02.230 Compensation Plan**

- (a) The City Council shall from time to time adopt a compensation plan applicable to all employees except employees covered by a labor agreement whose compensation shall be provided in the agreement.
- (b) The City Manager shall be responsible for the continuous maintenance and administration of the Town's compensation plan, which shall include an analysis of prevailing rates of pay for similar positions in comparable labor markets, cost-of-living factors, budgetary considerations, information exchanged with representatives of Recognized Employee Organizations and other related factors. On the basis of this information, the City Manager shall recommend to the City Council changes to keep the plan current, uniform and equitable.
- (c) The compensation plan for members of Recognized Employee Organizations shall be reviewed when the labor agreements are up for renewal and re-negotiation.
- (d) The compensation plan for unrepresented employees may be reviewed annually.

##### **3.02.240 Classification**

- (a) The City Manager shall create a list of every category of all regular and casual employee job positions in the Town together with a job description for each class, which shall be consistent with the staffing level authorized by the City Council.
- (b) All job descriptions shall consist of the position title, department, essential functions, basic tasks performed, description of typical duties and responsibilities and minimum qualifications, including physical qualifications, if any.
- (c) The position description does not constitute an employment agreement between the Town and the employee and is subject to change as the needs of the Town and the requirements of the job change.

### **3.02.250      Reclassification Procedure**

The City Manager shall periodically examine the nature of all positions and allocate them to existing or newly created classes, make changes in the classification plan as are made necessary by changes in the duties and responsibilities of existing positions, and recommend to the City Council appropriate changes in the classification plan and salary schedules.

### **3.02.260      Work Period**

(a)    *Public Safety Officers.* Pursuant to FLSA Section 207(k), the work period established for public safety officers is a regularly recurring period of 84 hours in 14 consecutive days.

(b)    *Other Employees.* The work period for all employees other than public safety officers begins 00:01 each Monday and ends at 24:00 the following Sunday.

### **3.02.270      Work Hours**

(a)    Normal working hours for all employees shall be determined by the City Manager.

(b)    Shift assignments shall be established by the Department Director.

### **3.02.280      Overtime**

(a)    Unrepresented, non-exempt employees shall be paid one and one-half times his or her base rate of pay for time worked in excess of eight hours in a day and two times his or her base rate of pay for time worked in excess of 12 hours in a day.

(b)    FLSA overtime will be paid in accordance with the FLSA.

(c)    An employee may not work overtime without prior written authorization from his or her Department Director.

[Reference: 29 U.S.C. §§ 201-215]

### **3.02.290      Compensatory Time Off**

(a)    The City Manager may allow an employee to take compensatory time off instead of receiving overtime pay for overtime work, as provided herein.

(b)    Compensatory time off is earned at the same rate as overtime pay.

(c)    Compensatory time off may be accumulated to a maximum of 48 hours to be used by the employee at a later time upon approval of the City Manager except as otherwise defined in any applicable Memorandum of Understanding.

(d)    At any time, an employee may request that all or any part of his or her bank of compensatory time off hours be converted to the equivalent in pay.

### **3.02.300 Recognition of Longevity**

(a) *Recognition.* After the first and every fifth full year of service, the Town will recognize eligible employees with a tangible award. This program does not constitute a contract to make an award and may be amended or repealed in the sole and absolute discretion of the City Council.

(b) *Eligibility*

(1) To receive a recognition award, an employee must meet all of the following requirements:

(A) The employee must be a regular employee, a probationary employee or a casual employee who worked more than 300 hours in the twelve months prior to October 1;

(B) The employee must have reached his or her recognizable anniversary date on or before October 1 prior to the recognition event; and

(C) The employee must be on paid status on the date of the recognition event.

(2) Casual employees who work less than 300 hours in the twelve months prior to October 1, temporary employees and elected officials are not eligible to participate in the Town's Employee Recognition Program.

(c) *Gifts.* The amount of money allowed for gifts shall be established by the City Council from time to time in its discretion. The City Manager shall, in his or her discretion, select a vendor and shall designate the type(s) and value of gifts for the anniversaries to be recognized.

(d) *Recognition Event.* The Employee Recognition Event occurs annually, usually immediately prior to the November City Council meeting. Residents and employees and their families are invited. Employees marking a service year that qualifies for recognition need not attend the event to receive a gift.

### **3.02.310 Garnishment**

(a) The City Manager will notify an employee who is subject to a wage garnishment, in writing, that a garnishment has been levied against the employee's pay.

(b) Repeated garnishments may be considered a cause for disciplinary action.

### **3.02.320 Pay for Working in a Higher Classification**

(a) Compensation for working out of classification is provided as monetary recognition to an employee for the assumption and performance of duties normally performed by an employee of higher classification.

(b) Compensation for working out of classification will be provided only if each of the following conditions are met:

- (1) The employee has assumed the full range of responsibilities of a vacant, higher classification;
- (2) The employee has worked 30 consecutive business days; and
- (3) The City Manager has approved the assignment to the higher classification.

(c) Working out of classification pay shall not be given to employees on temporary training assignments.

(d) Thirty days after commencement of work in a higher classification, an employee's salary for working out of classification shall be increased to the starting salary of the higher classification in which the employee is working or five percent above the employee's then existing salary, whichever is higher. If the salary of the higher classification is set by contract approved by the City Council, then the employee's salary shall be increased by five percent over his or her then existing salary.

(e) When the higher class assignment is completed, the employee's salary will be readjusted to its previous level. The employee's date of hire and Review Date will remain unchanged.

### **3.02.330 Pay Advance**

An advance in pay will not be granted except by the City Manager for a case of extreme hardship.

### **3.02.340 Time Sheets**

(a) All non-exempt employees shall accurately and completely report time worked and leave taken on time sheets and shall sign and submit the time sheets to their respective Department Director for review and approval.

(b) Exempt employees shall accurately report days not worked on an Exception Report.

(c) Falsification of time sheets or Exception Reports shall be a ground for disciplinary action up to, and including, termination.

(d) An employee may not sign a time sheet or Exception Report for another person.

### **3.02.350 Performance Evaluations**

(a) The functions of the employee performance evaluation are:

- (1) To provide each employee with timely reports of the employee's progress and allow for correction of deficiencies;

- (2) To provide the employee with positive recognition of strengths and special abilities and an opportunity to improve deficiencies;
  - (3) To provide an ongoing performance record which may become part of documentation used in making personnel actions;
  - (4) To provide a basis for step advancements and salary increases;
  - (5) To provide the employee with an opportunity to discuss ways and means for improvement;
  - (6) To serve as a mechanism for updating job descriptions;
  - (7) To allow the employee to give feedback to her or his supervisor; and
  - (8) To reflect higher performance expectations as a result of employee growth and development.
- (b) Each employee should be evaluated at least once a year.
- (c) Prior to an employee's Review Date, the employee's supervisor shall meet with the employee and evaluate the employee's overall job performance as exceeds standards, satisfactory, needs improvement or unsatisfactory. The City Manager may, for good cause, extend the time for a performance evaluation until after the employee's Review Date.
- (d) Performance evaluations may be considered by the City Manager in determining the advisability of transfers, the level of employee discipline, and in promotional examinations. Performance evaluations are maintained in the employee's personnel file and are available only to the employee's supervisor, the Human Resources Manager, the Department Director, the City Manager, and, when necessary, the City Attorney.
- (e) A performance evaluation is not subject to the grievance procedure.
- (f) The City Manager, in his or her sole discretion, may require varying levels of review in the evaluation process.

### **3.02.360 Change of Name, Address and Telephone Number**

- (a) Each employee or consultant functioning as an employee shall provide the City Manager with his or her current legal name, home address and home telephone number.
- (b) An employee must report any change of legal name, home address or telephone number within three business days of such change.
- (c) A violation of this policy may result in disciplinary action.

## **Division 5: Separation**

### **3.02.370 Resignation**

An employee wanting to resign in good standing with the Town shall provide a written resignation to his or her Department Director at least 14 calendar days prior to the effective date of resignation, shall be reasonably available for work during that period, and shall participate in an exit interview. Exceptions to the time limit requirement may be granted by the City Manager or Chief of Police. Providing less than two weeks notice may affect the employee's ability to be rehired.

### **3.02.380 Termination**

(a) The Town may terminate a regular employee for cause which shall include, but not be limited to, any violation of this Chapter.

(b) The Town may terminate an at-will, probationary or temporary employee at any time, with or without cause and with or without giving advance notice. At-will, probationary and temporary employees shall have no right to appeal or otherwise challenge the termination of their employment.

(c) Notwithstanding the above, probationary promoted employees are subject to section 3.02.150(c).

### **3.02.390 Lay-offs; Re-Employment**

(a) If the City Council determines, in its discretion, to reduce the Town's workforce for economic reasons, regular employees in those classifications identified for reduction will be laid off in reverse order of seniority.

(b) Any former regular employee who resigned from the Town in good standing, who is terminated because of an abolishment of position, or who is laid off because of a reduction in workforce, is eligible for re-employment as a new employee. The employee must file a completed Town application form and proceed through the regular hiring procedures with other applicants as described in the Hiring Process.

(c) If a position that was abolished because of a reduction in workforce is reinstated within six months thereafter, the Town shall notify all former employees who had been laid off within six months prior to reinstatement of the position. An employee who was laid-off because of that reduction who applies for reemployment shall be given preference over other applicants for that position, and offers of re-employment will be made to former employees in order of seniority.

(d) Reemployment of an employee in the retirement system will be made in accordance with the rules and regulations as set by CalPERS.

(e) All individuals re-employed by the Town must complete a new probationary period.

### **3.02.400 Out-Processing**

An employee who resigns or is terminated for any reason must return all keys to Town buildings and Town automobiles, employee identification cards, all Town records, and uniforms and equipment purchased by the Town, and shall disclose in writing any and all passwords to files and documents created or used by the employee, whether authorized or unauthorized.